

# **MARKET CONDUCT EXAMINATION**

**OF**

**ATLANTA CASUALTY COMPANY**

**ATLANTA SPECIALTY COMPANY**

**3169 HOLCOMB BRIDGE ROAD**

**NORCROSS, GEORGIA 30348**

**JANUARY 1, 1999 – DECEMBER 31,  
1999**

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Seattle Washington

June 20, 2000

Deborah Senn  
Insurance Commissioner  
Olympia, Washington 98504

Pursuant to your instructions and in compliance with the laws of the State of Washington, and procedures promulgated by the National Association of Insurance Commissioners and the Office of the Insurance Commissioner (OIC) a market conduct examination has been made of the

Atlanta Casualty Company

and

Atlanta Specialty Company

3169 Holcomb Bridge Road

Norcross, Georgia 30348

and this report of examination is respectfully submitted.

This is the third Market Conduct Examination of these companies. The prior exam was completed in 1997. It was a target examination of claims settlement practices. Two instructions were given in that report based on violations of WAC 284-30-340 and WAC 284-30-370. Violations in these two areas were also noted in this exam.

This examination was a target examination limited to complaints filed with the Office of the Insurance Commissioner of Washington and claims closed for Washington insureds between January 1, 1999 and December 31, 1999. The examination included a review of the following areas:

Complaint Handling

Claim Settlement Practices

The examination was performed in Norcross, Georgia.

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## EXAMINATION REPORT CERTIFICATION

This examination was conducted in accordance with Office of the Insurance Commissioner and National Association of Insurance Commissioners market conduct examination procedures. This examination was performed by Sally Anne Carpenter, who also participated in the preparation of this report.

I certify that the foregoing is the report of the examination, that I have reviewed this report in conjunction with pertinent examination work papers, that this report meets the provisions for such reports prescribed by the Office of the Insurance Commissioner, and that this report is true and correct to the best of my knowledge and belief.

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Pamela Martin

Chief Market Conduct Examiner

Office of the Insurance Commissioner

State of Washington

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## HISTORY AND OPERATIONS

Atlanta Casualty Company and Atlanta Specialty Company are licensed in Washington to market personal automobile coverage in Washington.

Atlanta Casualty Company was incorporated in June 1972 under the laws of Georgia. The company re-domesticated to Illinois in 1993 and then to Ohio in 1999. The company is 90% owned by the Pennsylvania Company and 10% by Republic Indemnity Company of America, which is a wholly owned subsidiary of the Pennsylvania Company.

Atlanta Specialty Company became a wholly owned subsidiary of Atlanta Casualty Company on November 30, 1994. Prior to that date the company operated as Principal Casualty Insurance Company. The name was changed at the time Atlanta Casualty acquired the company. The company was originally domiciled in Iowa and was re-domesticated to Ohio in 1997.

Administration of both companies is under the direction of Edward B. Stevens, President and Chairman.

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## COMPLAINTS

The purpose of this section of the examination was to review the companies' complaint handling procedures and compliance with WAC 284-30-360(2), which requires insurers to respond to inquiries from the Insurance Commissioner within 15 working days from the receipt of the inquiry. The complaints were also reviewed for possible adverse trends in claim handling or underwriting.

The companies have written complaint procedures. The policy services technical support department is responsible for maintaining a national tracking system for all Insurance Department inquiries. The manager, under whose area the complaint falls, is responsible for the reply.

The companies' 1999 Complaint log contained nine complaints from Washington. This included complaints addressing marketing or underwriting as well as claims. The examiner reviewed all nine complaints.

Our findings are as follows:

RCW 48.05.190(1) "Every insurer shall conduct business in its own legal name."

- Four responses, two from the Underwriting Department and two from the Claim Department, were on generic Atlanta Casualty Companies letterhead and did not identify the actual insuring company in the response. (See Appendix I for detail.)

*Subsequent event: The companies are changing their computer system later this year. The ability to correctly identify the specific insuring company is being incorporated with this system change. A memo was sent from the assistant claims manager while the examiner was on site reminding department heads to identify the insuring company on all correspondence.*

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## CLAIMS SETTLEMENT PRACTICES

The companies handle claims for Washington insureds from a regional claims office in Phoenix, Arizona, and with resident adjusters. The companies establish a 'claim feature' for each claimant and/or type of claim that is presented on a loss (e.g. a two-car at fault accident with no injuries will have two 'claim features,' a collision feature and a property damage feature). There were 2990 'claim features' closed during the examination period. First party 'claim features' may include claims for comprehensive or collision damage to the insured vehicle, personal injury protection, towing, rental coverage, uninsured motorist bodily injury or uninsured motorist property damage claims. Third party 'claim features' is either property damage or bodily injury claims.

The examiner selected 276 'claim features' to review. The files were examined for

compliance with laws regarding fair claims practices, total loss settlement, salvage disposal, and subrogation. Some files contained multiple violations. One file contained a mathematical error in the final settlement calculation. This file was returned to the claims department for correction, which resulted in an additional \$20.76 returned to the insured.

Our findings are as follows:

RCW 48.05.190(1) "Every insurer shall conduct business in its own legal name."

- The companies acknowledged that as a general business practice correspondence from the claim department does not identify the insuring company consistently. These violations occur because the corporate stationery is generic, and the specific insuring company is not identified in either the letterhead, or the signature block. Examples of these violations are contained in the work papers.

*Subsequent event: The companies are updating their computer system later this year. The automatic incorporation of the identification of the correct insuring company or correspondence will be implemented with this change. In the interim, the publication department has revised the letterhead to provide the names of each possible company and a block to be checked by the claim handler.*

The following are defined as unfair claim practices:

WAC 284-30-330(2) "Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under an insurance policy."

- 3 files were in violation of WAC 284-30-330(2) because the company failed to act promptly on communications received. (See Appendix I for details.)

WAC 284-30-330(3) "Failure to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies."

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- 8 files were in violation of WAC 284-30-330(3) because the company failed to complete the investigation timely or because they failed to properly investigate the claim before accepting liability. (See Appendix I for details.)

WAC 284-30-340 "The insurer's claim files shall be subject to the examination by the commissioner or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed."

- 17 files did not contain documentation of phone calls, explanations or dates of coverage resolution, or the notes lacked sufficient detail to satisfy the requirements of the regulation. Violations of this regulation were noted in the prior exam. (See Appendix II for detail.)

WAC 284-30-360(3) "An appropriate reply shall be made within ten working days,... or all other pertinent communications from a claimant which reasonably suggest that a

response is required."

- 2 files contained responses to correspondence that did not meet the time frame requirement. This violation was noted in the prior examination. (See Appendix VI for detail.)

WAC 284-30-370 requires insurers to complete the investigation of a claim within thirty days after notification of the claim, unless such investigation cannot reasonably be completed within such time.

- 9 files did not meet this investigation standard. Violations of this regulation were noted in the prior exam. (See Appendix III for detail.)

WAC 284-30-390 (1)(a)(b)(i-ii) and (c)

"(1) When an insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:

(a) The insurer may elect to offer a replacement automobile with a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy..."

(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible in the policy to purchase a comparable vehicle including all applicable taxes, license fees, and other fee incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by

(i) The cost of a comparable vehicle in the local market area when a comparable automobile is available in the local market area. Any settlement offer which relies upon the prices of automobiles advertised for sale in local newspapers may include only prices for vehicles verified by the insured as being comparable in age and condition to the insured automobile, or

(ii) One of two or more quotations obtained by the insurer from two or more qualified dealers within the local market area, and when a comparable vehicle is not available in the local market area. An insurer must accurately describe the age and condition of the insured automobile..."

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(c) When a first party automobile total loss is settled on a basis which deviates from the methods described in subsections (1)(a) and (1)(b) of this section, the deviation must be supported by documentation giving the particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to the dollar amount and shall be appropriate in amount..."

- 17 claim files contained violations that occurred because the evaluations included

vehicles that were not in the local market area or sales tax and transfer fees were deducted from the settlement when the owner retained the salvage. Additional payments totaling \$991.52 were made to ten insureds as a result of this examination of total loss claims. (See Appendix IV for detail.)

WAC 284-30-395 (1) requires insurers to provide an insured presenting a claim for Personal Injury Protection (PIP) a written explanation of the coverage provided by the policy. This explanation must include the circumstances that would allow the company to deny, limit or terminate benefits.

- The company acknowledged that this was not done on any PIP claims. The companies acknowledged that they did not have a letter to satisfy the requirements of this regulation.
- 194 Personal Injury Protection claims with payments made between January 1, 1998 and February 29, 2000 were identified by the company. This represents the total population of Personal Injury Protection claimants that were not advised of the requirements stated in WAC 284-30-395(1) during this time period. The list of claims is contained in the work papers.

RCW 46.12.070 and WAC 308-58-020 require the insurer settling a total loss to notify the Department of Motor Vehicles (DMV) and to surrender the title to the Department of Licensing (DOL).

- The company acknowledged that titles for total losses had been sent to the salvage pools. The salvage pools, which are under contract with the company, processed the titles and sent them to the state. The companies acknowledged that there was nothing in the claim files to confirm that the titles were properly surrendered to the DMV.

Subsequent Event: The company has confirmed in writing that procedures have been changed to process titles according to the requirements of RCW 46.12.070 and WAC 308-58-020.

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## INSTRUCTIONS AND RECOMMENDATIONS

### INSTRUCTIONS

1. The company is instructed to include the legal name of the company in all written correspondence as required by RCW 48.05.190(1). (Pages 5 and 6)
2. The company is instructed to adopt and implement standards to respond to communication on claims to ensure compliance to WAC 284-30-330(2) on every file. (Page 6)
3. The company is instructed to adopt and implement standards to ensure compliance to WAC 284-30-330(3) and complete timely investigation prior to accepting liability on every file. (Page 6)

4. The company is instructed to comply with WAC 284-30-340 regarding documentation of dates and pertinent events in all claim files. (Page 7)
5. The company is instructed to require claim handlers to respond to all pertinent communications regarding claims within the 10-day time frame pursuant to the requirements of WAC 284-30-360(1) and (3). (Page 7)
5. The company is instructed to comply with WAC 284-30-370 regarding prompt investigation of a claim. (Page 7)
6. The company is instructed to evaluate total losses according to the methods established in WAC 284-30-390(1)(a)(b) and (c). The company is further instructed to eliminate the practice of deducting sales tax and transfer fees from owner retained total loss settlements. (Page 7)
7. The company is instructed to send a written explanation of Personal Injury Protection (PIP) coverage and circumstances that would allow the company to deny, limit or terminate PIP benefits to each insured applying for benefits pursuant to WAC 284-30-395(1). (Page 7)
8. The company is instructed to implement procedures to notify the Department of Motor Vehicles of total loss vehicles by surrender of the title, or the appropriate form in absence of title, pursuant to RCW 46.12.070 and WAC 308-58-020. (Page 8)

## RECOMMENDATIONS

1. It is recommended that the companies' next internal audit of Washington files focus on compliance with Washington laws and regulations.
2. It is recommended that a copy of the Washington Administrative Code Title 284, which contains the Unfair Claims Settlement Practices, be provided to every claim office and resident adjuster servicing Washington claims.

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## APPENDIX I

### Violations of RCW 48.05.190

#### Underwriting and Claims

Policy # 06634117	Correspondence did not identify the actual insurer.
Policy # 0657452	Correspondence did not identify the actual insurer.
Claim # 98129851	Correspondence did not identify the actual insurer.
Claim # 06400375	Correspondence did not identify the actual insurer.



**Violation of WAC 284-30-330(2)****Claim number                      Comments**

062005470100	Personal Injury Protection Application and medical bills received by the company 6/11/99, no action taken by the company until 7/12/99.
981478700100	Company failed to respond to a demand for inter-company arbitration, and therefore automatically lost the case.
120901360200	Claim handler failed to respond to a claimant's correspondence.

**Violation of WAC 284-30-330(3)****Claim number                      Comments**

066325730100	Claim handler failed to complete the investigation before making a liability decision against the insured.
065490760100	Claim handler accepted liability on this loss without contacting the insured. There was no other verification of liability at the time of settlement.
981590030100	Claim handler accepted liability on this loss without contacting the insured. There was no other verification of liability at the time of settlement.
050490870401	Medical records received on 1/6/98, referred to management on 2/24/98. Delay in decision making on claim between 1/6/98 and 3/17/98.
061807410100	Delay in initial investigation 7/16/97-1/27/98. Delays in settlement between 8/13/98 – 3/17/99.
06321101000	Delay in initial contact with insured due to known language barrier. 6/16/99-9/8/99.
064400230100	Delay in initial contact of PIP claimant, 12/2/98-12/30/98, when the PIP claimant attorney calls the company.

981478700100	Delay in appraisal; delay in response to claimant damages. Claim handler assigned 3/13/98, 3/31 claim handler cancels claimant appraisal. Claimant provides estimate of damage of approximately \$260.00. Company demands second estimate. Claimant refuses. 4/15/98. Claim handler again assigns appraisal. Claim paid based on appraisal \$260.20 5/21/98.
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## APPENDIX II

**Violations of WAC 284-30-340****Claim number                      Comments**

056096850200	Log notes do not contain a breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
058362370400	Log notes do not contain a breakdown of the settlement offer on the total loss to show sales tax or license fees paid.
066942290100	Claim handler failed to document how it was established that the insured damages were under the deductible.
056354530100	Claim handler failed to document settlement discussions with defense attorney.
981715670100	Recorded statements, which are stored separately from the claim file, could not be located for review of possible subrogation opportunities.
06376750010	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
981478700100	Log notes do not reflect receipt of the estimate from the claimant, although there apparently was an estimate received as the claim handler calls the claimant about getting a second estimate 4/14/98.
066506810100	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
121078560700	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.

052515700300	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
055648100500	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
064208010100	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
064779570100	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
065013670200	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
065127560100	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
066092160200	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.
066542120100	Log notes do not reflect the breakdown of the settlement offer of the total loss to show sales tax or license fees paid.

### Violations of WAC 284-60-360(1) and/or (3)

#### Claim number                      Comments

120901360200	Medical bills and Personal Injury Protection application received 6/11/99, not addressed by the claim handler until 7/12/99.
0549933601	Log notes of 3/12/98 indicate that the insured's attorney has demanded PIP and UIM arbitration. No response to this demand is documented until 6/23/98.

### APPENDIX III

### Violations of WAC 284-30-370

#### Claim number                      Comments

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981715670100	Claim handler failed to request a scene investigation, needed for the liability investigation until approximately 6 weeks after the loss was reported.
981357070200	Liability investigation took almost 6 months, 7/3/98-12/26/98. Claim handler had apparently removed from assignment diary, so no activity occurred, although there were comments from the supervisor to the claim handler to work the file.
059735200600	Claim handler failed to take reasonable steps to complete the investigation timely, alleging that contact with the insured could not be made. However, the appraiser was able to contact the insured and conduct the appraisal. Delay 3/9/98-5/26/98.
062378040100	Claim assigned on 11/18/1997. Claimant paid 11/21/97, the claim handler failed to see the collision estimate, which was scanned into the claims computer system and did not pay the damages until 12/30/97.
050490870401	Delay in addressing injury claim. Records received 1/6/98, referred to SIU for review 1/21/98. No explanation of the delay between 1/6/98 and 1/21/98. Report received from SIU 2/24/98, referred to management for review 2/25. Management responds 3/17/98.
064003750100	Demand package and medical bills received 10/15/99, and referred for a medical review on 11/2/98, results from that review were received 12/10/98. Claim handler received settlement authority on 12/11/98 however no settlement offer was made until 12/23/98.
063211010100	Claim handler failed to use resources available to promptly contact the insured and complete the investigation. Delay 6/3/99- 9/8/99.
064400230100	Claim handler failed to contact personal injury protection claimant between 12/2/98-12/28/98. Claim handler never contacts the insured driver for a statement.
981478700100	Claim handler failed to complete the investigation timely. Loss assigned 3/13/98. Claim paid after unwarranted delay 5/21/98.

## APPENDIX IV

**Violations of WAC 284-30-390****Claim number                      Comments**

0560968502	Total loss evaluation prepared by vendor (CCC) based on vehicles in Detroit MI, for vehicle in Mt Vernon, WA. The claim handler did not identify this mistake.
0608065401	Total loss evaluation prepared by vendor (CCC) included vehicles that did not have equipment or condition verified. (Mileage unlisted) and included vehicles outside the local market area, including one that was 179 miles away.
0631155402	Total loss evaluation prepared by vendor (CCC). It lists only one vehicle. That vehicle was not identified as comparable to the insured vehicle. The mileage was not verified, yet there is an adjustment for the odometer reading.
0621277902	Total loss evaluation prepared by vendor (CCC) Two vehicles were included that were not verified as comparable to the insured vehicle. The mileage is not identified for either vehicle yet there are adjustments made for the odometer reading.
0657385701	Total loss evaluation prepared by vendor (CCC). All the vehicles used in the comparison are in California; the insured is in Gig Harbor, WA. The claim handler failed to identify this problem.
0643965401	Total loss evaluation prepared by vendor (CCC). One of the three vehicles used in the evaluation was in Yakima WA, 95 miles away from the insured, who resides in Kent, WA. The other two which were in the local market area had been inspected and should have been the basis for the total loss evaluation.
0648340801	Sales tax, title or license fee not paid. \$299.52 additional paid to insured
0556481502	Title or license fee not paid. \$11.75 additional paid to insured
0624884504	Title or license fee not paid. \$11.75 additional paid to insured

0631155402	Title or license fee not paid. \$19.18 additional paid to insured
0643695401	Title or license fee not paid. \$11.75 additional paid to insured
0647471801	Title or license fee not paid.
0656740102	Title or license fee not paid. \$11.75 additional paid to insured
0659645001	Title or license fee not paid. \$11.75 additional paid to insured
0668440001	Title or license fee not paid. \$127.82 additional paid to insured
0668938501	Title or license fee not paid. \$329.50 additional paid to insured
1209013602	Salvage deduction was not itemized and measurable as required in WAC 284-30-390(1)(c). The company deducted an arbitrary figure of 25%